

**IN THE HIGH COURT OF PUNJAB AND HARYANA  
AT CHANDIGARH**

**CRM-M No. 3045 of 2016  
Date of Decision:-20.12.2019**

Dr. Rajinder Singh

...Petitioner

Versus

State of Bihar and others

...Respondents

**CORAM:- HON'BLE MR. JUSTICE AMOL RATTAN SINGH**

Present :- Mr. G.S. Sandhu, Advocate  
for the petitioner.

Mr. R.S. Rai, Sr. Advocate with Amicus Curiae with  
Ms. Rubina Vermani, Advocate.

Mr. Ajay Pal Singh Gill, DAG, Punjab.

**AMOL RATTAN SINGH J.(Oral)**

To avoid repetition as regards the background of the case, the  
order passed on 17.12.2019 is reproduced herein below :-

“By this petition, the petitioner seeks transfer of a  
complaint/trial, as well as subsequent proceedings, in a  
case titled as **“Raju Kumar Ram v. Owner of Radha  
Ply Board and Dr. Rajinder Singh”**, stated to be  
pending before the court of the learned Judicial  
Magistrate 1<sup>st</sup> Class, Buxar.

Mr. Rai, learned Senior Counsel assisting this  
court as Amicus Curiae, has pointed out at the outset that  
the direction for transfer of investigation from Buxar

(Bihar) to Ludhiana (Punjab), vide the order of this court dated March 15, 2013 passed in CRM-M-36703 of 2009 (Annexur P-1), was issued at a stage when the report under Section 173 of the Cr.P.C. had already been submitted by the Buxar Police to the competent court, as would be obvious from the order of the learned JMIC, Buxar, dated 27.02.2015 (copy Annexure P-2), wherein the protest petition filed by the complainant in the FIR, had already been filed on 10.08.2011, obviously challenging the cancellation report submitted by the Buxar Police.

That being so, learned counsel for the petitioner would address arguments after examining the pleadings in CRM-M-36703 of 2009, and the order passed by this court in that case, as to whether that fact had been brought to the notice of this court, and if not, the consequences that would flow therefrom.

Learned Amicus Curiae and the learned State counsel would also examine the matter.

Learned counsel for the parties would also address arguments, that in such a situation, where actually the investigation stood concluded as regards the FIR registered in Bihar, with the District Police Buxar had submitted a cancellation report during the pendency of CRM-M-36703 of 2009 before this Court, but the fact and that a protest petition had already been filed by the person challenging that cancellation report not having been brought to the notice of this court either by counsel appearing for the State of Bihar, or even by the counsel appearing for the complainant in that case, i.e. Raju Kumar Ram, or counsel for the petitioner, as to whether

the directions contained in the order passed by this court in that petition on 05.12.2015, can be implemented, there in fact being no investigation left to be conducted in Bihar, and with therefore the question of transfer of such investigation not arising. Therefore, if an investigation were to be again started at this stage, in Ludhiana, it would actually be *de novo* investigation.

Further, learned counsel would address arguments as to whether, in such a situation, with the cancellation report having been obviously filed well before the order of this court dated 05.12.2015, the protest petition itself can be transferred to this court, with obviously neither the State of Bihar, nor respondent no.4 having come to defend this petition, despite service of notice upon the said respondents having been effected, as per the Registry's Note dated 06.07.2016.

All learned counsel would also refer to what has been held in the judgment of this court dated 05.12.2015, as regards jurisdiction qua the FIR registered in the State of Bihar.

It is to be noticed here that at the time when the order of this court was passed in December 2015 in that petition, even the petitioner had obviously not bothered to bring to the notice of this court the status of any investigation conducted by the Bihar Police and the result thereof, he simply (in 2009) having filed that petition, seeking transfer of the investigation.

Hence, learned counsel for the petitioner would also address arguments as to why, in such a situation, when the petitioner did not bother to check out the status of the investigation in Bihar, at the time when the order

was passed in the year 2015, he should be granted any relief.

For that purpose, adjourned to 20.12.2019.

To be shown in the urgent list.

Interim order to continue till the next date of hearing only and specifically.

It is made clear that if the counsel for the petitioner does not address arguments on the next date of hearing, the interim order shall be vacated.”

Today, Mr. Rai, learned senior counsel and Amicus Curiae, points to the last paragraph of the order passed by this Court (co-ordinate Bench) on 15.3.2013 (in CRM-M-36703 of 2009), which reads as follows :-

*“Considering the peculiar facts of the case, I am of the view that there should not be any further delay in investigation of the matter and further proceedings in the case by the police within jurisdiction in the State of Bihar may create other complications, it would be appropriate to direct that further investigation of this case should be carried out by police of Ludhiana. Accordingly, respondent no.2 is directed to transfer the above said FIR and investigation of the case to Ludhiana police for further investigation.*

*The present petition is allowed in the above terms.”*

Mr. Rai further points to the fact that even counsel appearing in that case for respondents no.1 and 2, i.e. the State of Bihar and the SHO, Police Station Buxar, had not objected to the investigation being transferred to Ludhiana.

Having considered the matter, though, as already recorded in

the order dated December 17, 2019, it had been observed that with the petitioner himself not having informed this Court at the time of decision of the previous petition, that in fact the investigation already stood concluded and this petition had been filed, he may not deserve even entertainment of this petition, however, with it having been pointed out as above, that what had been ordered to be transferred vide that order dated 15.3.2013, was “the FIR itself”, as also the investigation going on, and that order has become final with no challenge thereto, with the order obviously passed in the presence of the counsel for the State of Bihar as also counsel for respondent No.3 in that case, i.e. the person who had filed the petition before the learned Judicial Magistrate, Buxar, under the provisions of Section 156 of the Code of Criminal Procedure, (i.e. Raju Kumar Ram), naturally, thereafter all consequential proceedings, whether they be by way of a report under Section 173 Cr.P.C., or any order accepting or declining the recommendations made by the investigating agency and any protest petition filed thereafter, would be proceedings pursuant to the FIR registered and as such would have to be transferred to the competent court at Ludhiana.

That being so, with it also seen (though with this court now of course not being competent to go into that aspect, it already having been adjudicated upon in CRM-M-36703 of 2009), that the allegation of the complainant was that it was on account of the negligence of the petitioner in a hospital at Ludhiana that his uncle, i.e. deceased Pardeep Kumar, died, after reaching Bihar, obviously the main cause of action arose within District Ludhiana.

Consequently, the learned Chief Judicial Magistrate/Judicial Magistrate 1<sup>st</sup> Class, Buxar, who is seized of the protest petition before it (stated to have been treated to be a complaint in terms of Section 200 of Cr.P.C.), is directed to transfer the said petition, alongwith all record, to the Chief Judicial Magistrate, Ludhiana, who would thereafter take action as per law, by assigning to it to the appropriate Court.

The petition is allowed as above.

December 20, 2019  
Vijay Asija

( AMOL RATTAN SINGH )  
JUDGE

Whether speaking/reasoned  
Whether Reportable

Yes  
Yes